



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

TM:AL/AH  
F.#2011R00006

271 Cadman Plaza East  
Brooklyn, New York 11201

August 6, 2012

By Hand Delivery and ECF

The Honorable Kiyo A. Matsumoto  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Neil Messina  
Criminal Docket No. 11-31 (KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter regarding the above-captioned case, in which jury selection is currently scheduled for September 24, 2012, and trial is scheduled to begin on October 1, 2012.

As the Court is aware, the government intends to present a superseding indictment in this case. On August 3, 2012, the government and Gerald J. McMahon, Esq., counsel to the defendant, discussed several issues, including the nature of a charge that the government intends to present to the grand jury. The parties agree that this charge, if returned by the grand jury, will affect the timing of the trial, as well as possible plea negotiations.

For these reasons, the parties jointly believe that the currently scheduled trial date is not feasible. In addition, because Mr. McMahon will be away this week and cannot meet with the defendant until the week of August 15, 2012, the parties also request additional time to determine if plea negotiations may be possible.

Therefore, the parties respectfully request permission to discuss the case among themselves, and to advise the Court in short order of their progress. If the case can be resolved by plea, the parties will so advise the Court, and will request a

date to do so. Otherwise, the government will present its superseding indictment, and, if that indictment is returned by the grand jury, the parties will contact the Court to request a date for an arraignment and status conference at which a new trial date can be scheduled.

Respectfully submitted,

LORETTA E. LYNCH  
United States Attorney

By: /s/  
Allon Lifshitz  
Amanda Hector  
Assistant U.S. Attorneys  
(718) 254-6164/6212

cc: Gerald J. McMahon, Esq. (by ECF)  
Clerk of the Court (KAM) (by ECF)